Supreme Court, U.S.
FILED
NOV 20 2002

No. 02-609

In The
Supreme Court of the United States

ERIC RINGSRED, an individual,

Petitioner,

vs.

(1) CITY OF DULUTH, a municipal corporation; and the following City officials individually and in their official capacities: (2) GARY L. DOTY, Mayor; (3) CYNTHIA ALBRIGHT, Assistant City Attorney; (4) BRYAN BROWN, City Attorney; (5) ROBERT ASLESON, Assistant City Attorney; (6) JOHN SCHWEIGER, Special Projects Manager; (7) JOHN SMEDBERG, Assistant City Attorney; (8) DULUTH ECONOMIC DEVELOPMENT AUTHORITY AND ITS DIRECTOR, CYNTHIA ALBRIGHT, individually and in her official capacity; (9) TEAM DULUTH; (10) SOFT CENTER-DULUTH, INC.; (11) MICHAEL MCNAMARA; (12) THE DULUTH AREA CHAMBER OF COMMERCE and (13) its CEO DAVID ROSS,

Respondents.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Eighth Circuit

RESPONDENTS' BRIEF IN OPPOSITION

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STATEMENT OF THE CASE

Petitioner's claims are all intertwined with previous state court actions which have been litigated to their conclusion by Petitioner. In May of 1998, Petitioner, Eric Ringsred (herein "Ringsred"), brought suit in Minnesota State District Court, on behalf of the State of Minnesota, and against the City of Duluth, Duluth Economic Development Authority, Mayor Gary Doty, and others under the Minnesota Environmental Rights Act, Minnesota Statutes §116B.01 ("MERA") and the Minnesota Environmental Policy Act, Minnesota Statutes §116D.01, et seq. ("MEPA"). According to Petitioner's Complaint, the purpose of the earlier suit was to protect buildings, which were located in the "Duluth commercial historic district" from a demolition designed to make space for the erection of the "Soft Center/Technology Village" project. In particular, Ringsred sought, on behalf of the State of Minnesota, to enjoin the "Soft Center/Technology Village" project and require the City to prepare an Environmental Impact Statement ("EIS"). The trial court issued two temporary restraining orders (which were subsequently vacated) and then held a trial on the merits during September and October of 1998.

On October 5, 1998, the trial court issued an order finding the area in dispute to be a portion of a larger historical district and thus to be a natural resource under MERA. *Dckt. #51, Ex. 1.* However, the trial court found that the Soft Center/Technology Village project should proceed. *Id.* The court reasoned that the project would not have a significant impact on the "natural resource" since it was only a part of the district, and further, that any effect would further diminish over time. *Id.* The court also found that there was no feasible alternative site for the project and the project would yield substantial economic and

educational benefits to the City and its citizens. *Id.* The trial court allowed the demolition of the buildings in dispute at the time of the trial, but imposed a mandatory injunction requiring the Defendants to comply with the environmental protections for any future development on the site. *Id.*

Petitioner Ringsred appealed the trial court's order to the Minnesota Court of Appeals, which affirmed the trial court's decision in all respects. *See, State of Minnesota by Ringsred v. City of Duluth*, 1999 WL 618613 (Minn. App. 1999). *Dckt. #51, Ex. 5.* No further appeal was taken by Ringsred.

In December of 1999, Ringsred filed in state court a motion for an order to show cause and an application for sanctions against the Defendants in the state court action. Ringsred contended that the Defendants in the state court action had violated various Minnesota Statutes, including giving false testimony concerning federal funding for the Soft Center project and regarding potential buyers and users for the Strand Theater (a vacant adult movie theater); the preemptive demolition of the Strand Theater; the conduct of prejudicial pretrial meetings with Ringsred witnesses; the dissemination of prejudicial pretrial publicity; the threatening of Ringsred witnesses; the interference with the service of the subpoena on one of Ringsred's witnesses; the disobedience of the court's mandatory injunction; the misrepresentation of facts during the hearing on Ringsred's motion for a temporary restraining order; the demolition of a building without a building permit; the demolition of a building without authorization by the DEDA; the demolition of a building without taking competitive bids; and the attempt to cover up the failure to take competitive bids. *Dckt. #51, Ex. 6.* The state trial

court denied Ringsred's motion because most of his allegations were based on hearsay and because, in the court's view, a motion for an order to show cause and for sanctions was an inappropriate means of raising such issues. *See Petitioner's Appendix to Petition for Writ of Certiorari (hereinafter "App.") Document #7.* No appeal was taken.

Instead, Ringsred brought this action under Title 42 U.S.C. §1983 alleging that the Government Defendants,[1] the Soft Center Defendants,[2] and the Chamber Defendants,[3] infringed upon the Petitioner's federal constitutional rights regarding due process, equal protection, and fair access to the courts. *Ringsred Petition, p. 7.* The Petitioner's claims are based on the unsubstantiated allegations that certain actions were taken by the Respondents during prior litigation in state court involving the Petitioner and some, but not all, of the Respondents in the federal case. *Id.* Petitioner has also alleged that Respondents defamed Petitioner publicly. *Id.*

Government Defendants then brought a motion to dismiss under Federal Rule 12(b) for failure to state a claim upon which relief could be granted and for summary judgment. *Dckt. #48.* Petitioner, in response to the Government Defendants' motion, brought a motion to amend his complaint, presenting, in essence, the same claims

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[1] All of the defendants, except the Soft Center Defendants, hereinafter defined, and the Chamber Defendants, hereinafter defined.

[2] Soft Center-Duluth, Inc. and Michael McNamera, in his capacity as an employee of Soft Center-Duluth, Inc.

[3] Team Duluth, Michael McNamera, the Duluth Area Chamber of Commerce and its CEO, David Ross.

previously denied by the State District Court. *Dckt. #70, 71.*

Soft Center Defendants and Chamber Defendants both brought summary judgment motions. *Dckt. #83, 84, 94, 95.* The Soft Center Defendants' summary judgment was based on the fact that Petitioner's complaint failed to state any cause of action against them. *Dckt. #84.*[4] Together with the Chamber Defendants, the Soft Center Defendants also contended that they were not acting under color of state law and therefore could not be held liable under 42 U.S.C. §1983. *Dckt. #84,95.*

Magistrate Judge Erickson in his recommendation to grant all the Respondents' summary judgment motions found that:

> Notably, the Plaintiffs allege no occasion when they were unable to present claims, or evidence in support of any claim, to the State Court, or where they have declined to advance a claim, make an argument, or otherwise petition a Court for relief, on account of some fear of retaliation at the hands of the Defendants. Rather, the Plaintiffs suggest, by mere inference, that the result reached by the State Court would have been different had the Defendants not engaged in the acts of which they are accused. Insofar as we are

[4] It is worthy to note that Ringsred addresses each of his claims against all the defendants and does not distinguish between defendants in this appeal. However, Ringsred has testified that he has no claims against the Soft Center Defendants. *See, Soft Center Summary Judgment Memorandum, Dckt. #84; Affidavit of Roy Christianson, Ex. B and C, Dckt. #85.*

> aware, and our research has been extensive, this is a case of first impression.
>
> Some learn from history, others are content to relive it. In this instance, any regression, so as to relitigate the past, is foreclosed by controlling Federal precedent. After a painstaking review of the Record presented, we can applaud the Plaintiffs for the novelty of their claims but we conclude that none of their causes of action can survive the Defendants' dispositive Motions and, therefore, we recommend that those Motions be granted.

Report and Recommendation of the Federal Magistrate, filed October 22, 2001, as Docket No. 118 (hereinafter the "R & R"). *App. #1, p. 16.* The R & R recommended that the Petitioner's motion to amend their complaint be denied and that the motions of defendants be granted. *Id.*

On November 8, 2001, Petitioner filed objections to the Magistrate's report. *Dckt. #121.* Responses from all Respondents were filed with the Court. *Dckt. #123, 124, 125.* The District Court reviewed Magistrate Judge Erickson's report and recommendation as well as Plaintiff's objections to the report. *App. #2, p. 49.* The Court conducted a de novo review of the objected-to portions of the report and was "satisfied that Judge Erickson's recommended disposition is fully supported by the record before him and by controlling legal precedent. The report and recommendation is thorough and the legal analysis sound." *Id.* The Court then ordered that the objections were overruled, the report and recommendation adopted, granted all the Respondents' motions for summary judgment and dismissed the Complaint, with prejudice. *Id., pp. 49-50.*

On December 26, 2001, Petitioner Eric Ringsred filed a Notice of Appeal. *Dckt. #128.* Responses from all Respondents were filed with the Court of Appeals. The Appellate Court reviewed the record and affirmed the dismissal of the federal claims with prejudice and the dismissal of any state claims without prejudice. *See, App. #3, p. 52.*

On September 24, 2002, Petitioner Eric Ringsred filed a Petition for Writ of Certiorari. The case was docketed on October 24, 2002, as case no.02-609.

SUMMARY OF THE ARGUMENT

The Petitioner fails to set forth a proper reason for granting Writ of Certiorari under the Supreme Court Rules of Procedure. The District Court correctly held that Ringsred did not have the proper standing to bring many of the claims brought in this action. Ringsred does not have standing to bring a claim for violation of due process on a representational basis on behalf of the State of Minnesota because the State has no right to such a claim. Ringsred has failed to allege a valid property interest giving him the necessary standing to bring this action. The District Court correctly held that it did not have subject matter jurisdiction to hear Ringsred's claims under the *Rooker-Feldman* doctrine.

ARGUMENT

1. Petitioner has failed to state a compelling reason for granting a Writ of Certiorari under Rule 14 of the Supreme Court Rules of Procedure.

Petitioner's petition for Writ of Certiorari should be denied for failing to state a compelling reason for allowance of the writ. Rule 14(1)(h) of the Supreme Court Rules, states:

> A petition for Writ of Certiorari shall contain, in order indicated:
>
> > (h) A direct and concise argument amplifying the reasons relied on for allowance of the writ. *See* Rule 10.

The Petitioner's petition does not contain an argument stating a reason for allowance of the writ. Rule 10 of the Supreme Court Rules, which states the character of reasons the court considers, states:

> Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:
>
> > (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted usual course of judicial proceedings, or sanctioned

> such a departure by a lower court, as to call for an exercise of this Court's supervisory power;
>
> (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;
>
> (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be settled, by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.
>
> A petition for writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.

The Petitioner does not state an argument under any of the reasons under Rule 10. The Petitioner does argue that the matter is one of "first impression." The matter was one of first impression because of the vagueness of the Petitioner's allegations. Magistrate Judge Erickson recognized that the Petitioner was asking the court to make conclusions on mere inferences. The court was also left with the responsibility of trying to discern the Petitioner's causes of action. Magistrate Judge Erickson stated:

> By and large, the Complaint does not differentiate between the Defendants, or specifically identify which of the Defendants committed which misdeed. Moreover, many of their allegations are so vague and sweeping, that they afford the Defendants with little notice, or forewarning, of the specific misconduct of which they are accused.

The Petitioner has once again left the court with the responsibility of trying to discern what his cause of action is by not stating his reason for allowance of the writ. The Petitioner states no compelling reason why the writ should be granted. The decision of the Eighth Circuit Court of Appeals is not in conflict with the decision of another United States Court of Appeals decision nor has the Eighth Circuit's decision so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power.

The Eighth Circuit's decision is consistent with other appellate courts of this nation and Petitioner cites no conflicting caselaw. Further, the decisions of the Eighth Circuit and the Federal District Court are based on the well-established *Rooker-Feldman* doctrine, which was instituted almost eighty years ago. *Rooker v. Fidelity Trust Company*, 263 U.S. 413 (1923). Where as here, the decision below is based on well-established, non-controversial precedent and is consistent with other appellate courts, Petitioner's petition for Writ of Certiorari should be denied.

The decisions of the state court, where the Petitioner initially started this action, were not made in a state court of last resort. The Petitioner appealed once to the Minnesota Court of Appeals, but he did not seek review by the Minnesota Supreme Court. The Petitioner's state court actions also did not contain an important federal question but rather were actions brought under state statutes. The state court also did not decide an important question of federal law that has not been settled by this court. There was no federal law involved until the Petitioner brought his action to Federal court, which was properly dismissed under the *Rooker-Feldman* doctrine.

Therefore, Petitioner's petition should be denied for failing to state a compelling reason for allowing a writ under Rule 10 and Rule 14(1)(h).

2. The District Court properly granted all Respondents' motions for summary judgment when it found that Ringsred lacked standing to assert the Constitutional rights of access to the courts, due process or equal protection.

Petitioner Ringsred claims that his First Amendment rights of access to the courts as well as due process and equal protection have been denied by the District Courts. However, an appellant cannot creatively invoke the First Amendment in order to restate a claim for relief that has been rejected on the merits by the state court. *Lemonds v. St. Louis County*, 222 F.3d 488, 494 (8th Cir. 2000). In *Lemonds* the court found that:

> Although technically the suits invoke distinct constitutional provisions, as a substantive matter they both challenge the basic fairness of the petition process based on the concept of lack of notice. Thus, the first amendment and equal protection arguments presented to the district court appear to be nothing more than creative attempts to reclothe the failed due process claim in new constitutional garb. As such, these arguments present us with a situation in which a decision favorable to appellants could "only be predicated upon a conviction that the state court was wrong." *Pennzoil Co. v. Texaco, Inc.*, 107 S.Ct. 1519 (1987) (Marshall, J., concurring). Without commenting on the merits of appellants' arguments, we simply reiterate that federal plaintiffs cannot by artful pleading obtain a hearing of disguised state court appeals that

> would otherwise be subject to a *Rooker-Feldman* bar. (Citations omitted).

Id.

Much of Ringsred's claim of denial of access to the Courts is based on the "preemptive" demolition of the Strand Theater and three other buildings. However, these very same claims were heard by the state court and an order was issued. The Federal Court found:

> Notably, however, the State District Court heard these contentions, and was unmoved to order the equitable relief that Ringsred then sought. We have no basis to conclude, as the Plaintiffs imply, that the State Court was powerless to act if, in fact, the Court determined that its integrity was being impugned either by the partial razing of the Strand Theater in August of 1998, or by the subsequent destruction of three buildings in December of that same year. The State Court had a full panoply of equitable means to forestall, indefinitely, any further demolition, and to require a faithful, though probably less than perfect restoration, if that Court had been persuaded that such measures were warranted.

R & R, pp. 34-35. Ringsred has not been denied access to the courts, where as here, the issues have been fully litigated in the courts below.

Ringsred misstates or misinterprets the magistrate's Recommendation and Report, as affirmed by the District Court and Court of Appeals, after review of the Objections to the Report filed by Ringsred. The District Court found that:

> In determining whether a plaintiff has properly asserted a claimed violation of due process, the

> first inquiry is into whether there exists a liberty or property interest which the defendants have denied to that plaintiff. *See, Kentucky Dept. of Corrections v. Thompson,* 490 U.S. 454, 460 (1989). . . . In this case Ringsred's claim does not survive the first prong of the analysis, as we find no property, or liberty interest, which, under the circumstances presented, was personally held by Ringsred.
>
> . . . As the caption of the State Court case accurately reflects, the claims that Ringsred was there prosecuting were the claims of the State of Minnesota.
>
> . . . As a consequence, if any property or liberty interest was impaired, it was the interest of the State of Minnesota, which does not here join in the Plaintiffs' Section 1983 claim.

R & R, pp. 25-27. Further, the Court noted that the State of Minnesota could not join such a suit since a State is not entitled to the protection of Section 1983. R & R, note, 16, p. 28, citing *Commonwealth of Pennsylvania v. Porter,* 659 F.2d 306, 314 (3rd Cir. 1981). The District Court then analyzed and found that Ringsred, on an individual basis, had not been denied his constitutional right to access to the courts.

Ringsred appeals this portion of the decision on, apparently, two grounds. First he claims that First Amendment rights (which include access to the courts) are applied to matters of public concern and he as an individual was denied that right. However, the Court carefully analyzed this exact issue, and found, where as here, the state, had not joined this suit, nor could it, that Ringsred had no standing to bring this matter in a representational

capacity on behalf of the state. R & R, p. 30. Ringsred cannot assert a claim on behalf of a party which had no right itself to assert such a claim. A State cannot bring a claim for a Section 1983 violation. *See, R & R, note 16 and the cases cited thereunder.*

3. *Logan v. Zimmerman Brush Co.*, 445 U.S. 422, 102 S.Ct. 1148 does not apply.

The Petitioner argues that he has a property right in his "cause of action". The Petitioner cites *Logan v. Zimmerman Brush Co.,* 102 S.Ct. 1148 (1982) in support of this argument. *Petitioner's Petition, p. 13.* The Petitioner's case and *Logan* are distinguishable in the outset due to the fact that the parties in *Logan* followed proper court procedure in bringing their appeals in the proper jurisdictional courts. The parties in *Logan* had exhausted their stated court remedies and then petitioned the United States Supreme Court.

Logan was also fighting for his day in court. In *Logan*, the court stated "as our decisions have emphasized time and again, the Due Process Clause grants the aggrieved party the opportunity to present his case and have its merits fairly judged. Thus it has become a truism that 'some form of hearing' is required before the owner is finally deprived of a protected property interest." *Id.* at 1156. Logan was being deprived of his day in court because of a violation of a procedural rule, which was not the fault of Logan. *Id.*

Ringsred enjoyed a full state and evidentiary hearing and an appeal to the Minnesota Court of Appeals but he did not exhaust his state court remedies before bringing his cause of action to the Federal Court. He did not

attempt to appeal to the Minnesota Supreme Court after the Minnesota Court of Appeals affirmed Judge Hallenbeck's ruling on Ringsred's MERA and MEPA claims. Ringsred did not appeal Judge Hallenbeck's dismissal of his "order to show cause" but was clearly given his day in court.

4. Petitioner failed to show the District Court any Private Right or Interest.

The final basis for Ringsred's appeal is his claim that he did hold a private property interest and thus had a right to assert a claim for denial of access to the Courts. Ringsred, however, failed to show to the District Court any personal right or interest that would give him the requisite standing to assert this claim. Ringsred failed to allege or prove to the District Court that he had any direct ownership, or other property interest in any of the buildings which were demolished, and he readily admits that he has not lost any business due to what he describes as the Respondents' "unlawful recruitment of local businesses." *R & R, p. 49, citing Ringsred Deposition at 77-79.*

For the first time on Appeal to the Eighth Circuit Court, Ringsred asserted that he did have such an interest. *See, Appellant's Brief to the Eighth Circuit Ct. of Appeals, p. 24.* This interest is limited to being a "sometime" silent partner to the owner of a company that had some sort of tenancy agreement in the Pastoret-Stenson Building. *Dckt. #82, pp. 173-174.* The operating partner did not dispute or litigate the tenancy termination. *Id.* Appellants cannot raise this issue/claim for the first time on appeal. *Morrow v. Greyhound Lines, Inc.*, 541 F.2d 713,

724 (8th Cir. 1976). Moreover, this rather tenuous relationship, does not escape the *Rooker-Feldman* bar.

5. The *Rooker-Feldman* doctrine is a bar to federal jurisdiction over Petitioner's cause of action.

Magistrate Judge Erickson recommended that all claims of the plaintiff be dismissed for lack of subject matter jurisdiction pursuant to the *Rooker-Feldman* Doctrine. *See, R & R, pp. 36-44 (Dckt. #118).* The District Court supported the recommendation. *See,* Order of the Federal District Court, filed November 26, 2001, Docket #126. The Eighth Circuit Court of Appeals then affirmed the District Court. *See Petitioner's Petition, appendix, p. 53, Judgement of the Eighth Circuit Ct. of Appeals.* Ringsred persists in arguing that his, or any other public interest litigants', Constitutional rights regarding due process, equal protection, and fair access to the courts have been taken away by the Eighth Circuit Court's decision. He is mistaken in that conclusion. Ringsred was provided his right to be heard as a public interest litigant in the State District Court. When his efforts proved unsuccessful, Ringsred attempted to relitigate the same issues anew in Federal Court. The *Rooker-Feldman* doctrine does not provide Ringsred with that luxury.

In finding that the *Rooker-Feldman* doctrine barred the constitutional claims, Federal Magistrate Judge Erickson stated:

> The *Rooker-Feldman* doctrine presents a subject matter jurisdictional bar to general constitutional challenges brought in Federal Court, when the constitutional challenges are essentially

> appeals from a State Court judgment, or are inextricable intertwined with claims prosecuted in State Court. *See, District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 476 (1983); *Rooker v. Fidelity Trust Company*, 263 U.S. 413, 416 (1923); *Lemonds v. St. Louis County*, 222 F.3d 488, 492-93 (8th Cir. 2000) ("The *Rooker-Feldman* Doctrine forecloses not only straightforward appeals but also more indirect attempts by federal plaintiffs to undermine state court decisions."), cert. denied *sub nom., Halbman v. St. Louis County*, 531 U.S. 1183, 121 S. Ct. 1168 (2001); *Charchenko v. City of Stillwater*, 47 F.3d 981, 983 (8th Cir. 1995). In other words, when a case seeks a review of a State Court judgment, or is inextricably intertwined with the State Court judgment, the Federal Courts, with the exception of the United States Supreme Court, lack subject matter jurisdiction to decide the matter. *See, Lemonds v. St. Louis County, supra*.

R & R, pp. 36-37. In applying this legal precedent to the underlying facts, Magistrate Judge Erickson found:

> The intertwining of Ringsred's current claims, and those he advanced in the State Court proceeding, cannot be seriously contested. If, as Ringsred continues to allege, the Defendants have violated the terms of a State Court Judgment, we can see no reason to allow Ringsred to ignore that Judgment, with impunity, and proceed with the same claims in a Section 1983 vehicle in Federal Court, in order that he may seek monetary damages, in substantial sums, which were unavailable to Ringsred in the State Court, for conduct that the State Courts found to be compliant with the State Court's injunction, and with the governing law. While Ringsred may well

be disappointed in the rulings of the Minnesota Courts, we do not sit as a Court of Appeals on State Court matters. Ringsred had full access to the State Court, and he exhausted his avenues for relief, from the State Court's Judgment, to the extent that he then felt was warranted. To allow litigants to engage in a successive section 1983 claim, based on no more than their disagreement with an underlying State Court ruling, would effectively disembowel the *Rooker-Feldman* Doctrine.

As further proof of the inextricably entwining of the Plaintiffs' current Federal claims, with those resolved by the State Court, we need only note that each of the protests as to the Government Defendants' conduct with Fisher; with Aubut; with the preemptive razing of the Strand Theater, and of other buildings in December of 1998; with the dissemination of prejudicial pretrial publicity; with misrepresentations of fact; with violations of the Minnesota's bidding and contract laws; and with unprofessional conduct by the City's attorneys, and governmental agents; were expressly proffered to the State District Court, in December of 1999, in conjunction with Ringsred's request that the Court find the Government Defendants in Contempt of Court so as to be appropriately sanctioned. The State District Court rejected Ringsred's contentions, and denied the Motion to Show Cause why the Government Defendants should not be cited for contempt, or otherwise sanctioned.

We understand Ringsred to characterize the State Court's decision as, in effect, a deferral of any ruling. We disagree. The State District Court did not strike the Motions, or dismiss them as outside of the Court's subject-matter jurisdiction.

> Rather, the Court denied the motions, explaining that many were ill-founded on incompetent or insufficient evidence, or were better suited to a disposition in criminal, or in professional disciplinary proceedings.

R & R, pp. 39-41.

Ringsred does not put forth an argument in his current petition rebutting the lower court's holding that his cause of action is dismissed for lack of subject matter jurisdiction under the *Rooker-Feldman* doctrine. Ringsred in his appeal to the Eighth District Court of Appeals claimed that the *Rooker-Feldman* doctrine should not apply because the actions of the state government abuse are similar to the types of actions which led to the enactment of the Ku Klux Klan Act of 1871. Such is not the case here. However, as the District Court has so aptly pointed out where the appellant seeks through Federal Court action to enforce a State Court judgment, the *Rooker-Feldman* action does apply.

At the conclusion of the trial in State District Court, Judge Hallenbeck issued extensive findings of fact and conclusions of law, finding that a historic district did exist, but that the project could proceed. *Findings of Fact, Conclusions of Law, and Order for Judgment*, St. Louis County File No. C3-98-601186, dated October 5, 1998. *Dckt. #51, Ex. 1.* Mr. Ringsred appealed Judge Hallenbeck's decision. *Dckt. #51, Ex. 2.* Ringsred did not identify as grounds for appeal any of the basis he now asserts against Respondents, i.e., the alleged improper threat by Schwerdt against Ringsred, the alleged improper pretrial meetings, the alleged improper rally in support of the Tech Village project, the alleged improper news advertisements, and the alleged improper passing on of threats to witness

Sheldon Aubut. *Id.* On August 5, 1999, the Court of Appeals denied Ringsred's appeal and affirmed Judge Hallenbeck's decision. *Dckt. #51, Ex. 5.*

On December 27, 1999, Ringsred moved Judge Hallenbeck for an order to show cause and for award of sanctions based upon alleged acts of civil contempt. *Dckt. #51, Ex. 6.* In that Motion for Sanctions, Ringsred alleged many of the same actions which are the basis for the claims in this Federal suit. *Id.* The State Court judge heard argument on this issue and expressly denied Ringsred's request for civil contempt based on such allegations. *Dckt. #51, Ex. 7.* Ringsred did not appeal this order, but, instead, brought this action in Federal Court.

"U.S. district courts have no jurisdiction over challenges to state court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional." *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 103 S.Ct. 1303, 1304, 75 L.Ed.2d 206 (1983).

> If the constitutional questions stated in the bill actually arose in the cause, it was the province and duty of the state courts to decide them; and their decision, whether right or wrong, was an exercise of jurisdiction. If the decision was wrong, that did not make the judgment void, but merely left it open to reversal or modification in an appropriate and timely appellate proceeding.

Rooker v. Fidelity Trust Co., 263 U.S. 413, 415, 44 S.Ct. 149, 150, 68 L.Ed. 362 (1923).

Here, Ringsred failed to follow the proper appeal procedure of appealing the order of the state district court to the state court of appeals. The U.S. Supreme Court

prohibits Ringsred from now bringing his claims in the federal courts.

Ringsred cannot now relitigate this case under the guise of a Section 1983 action. Labeling a suit as a § 1983 action alleging due process violations does not automatically remove the bar to suit in federal court. *Maple Lanes, Inc. v. Messer,* 186 F.3d 823, 825 (7th Cir. 1999), *cert. denied,* 120 S.Ct. 939 (2000). The *Rooker-Feldman* action was designed to address situations such as this where, as here, Ringsred is alleging the same facts and circumstances as had been litigated in the State Courts. Ringsred also claims that the District Court misinterprets the State Court's decision. Ringsred alleges that his claims have not been litigated in State Courts because the actions he is complaining of occurred after the trial in State Court and the appeal. Ringsred claims that the underlying basis for this has to do with the violation of the State Court injunction. Ringsred, however, admits that he has raised this issue before the State Court. *See, Appellant's Brief to the Eighth Circuit Ct. of Appeals, p. 17.* The Federal Court has not misinterpreted the State Court's decision but has correctly noted that if there is a state court injunction, it is not up to the Federal Courts to enforce it. Ringsred cannot now bring a civil right's claim because he did not like the results of the underlying State District Court's decision.

While the State Court's decision did state that other forums may be more appropriate for some of these claims, the Court also dismissed most, if not all, of Ringsred's claims based on the fact that many, if not all, of the complaints alleged in the post-trial motion were significantly hearsay in nature and lacked specificity. *See Memorandum in Support of Order Regarding Motion for Order to Show Cause in Contempt,* paragraphs 2, 3, 6, 8, 9, 10, 12, 13, 14

and 15, *Dckt. #51, Ex. 7.* Thus, in large part, the dismissal of these very same issues in State Court was based upon the fact that they were hearsay and lacked the specificity necessary to state a claim.

Ringsred did not appeal this Order. Ringsred cannot now bring these identical claims which, a review of the Complaint and evidence before the Court will show, are still hearsay, are still vague in nature and incapable of stating a cause of action upon which relief can be granted, even if the *Rooker-Feldman* doctrine did not apply.

CONCLUSION

The Petitioner's petition for Writ of Certiorari should be denied because it fails to state a compelling reason for granting the petition. Petitioner lacks subject matter jurisdiction under the *Rooker-Feldman* doctrine and standing to assert the Constitutional rights of access to the courts, due process, or equal protection.

Dated: November 19, 2002

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